each tax period. Where a person does not use the credit authorized by this section to directly reduce the rate of Federal excise tax on wine, that person shall report on ATF F 5000.24 where such credit will be, or has been, applied. Where a transferee in bond takes credit on behalf of one or more small producers, the names of such producers, their credit rate, and the total credit taken on behalf of each during the tax return period shall be shown in schedule B.

(g) *Denial of deduction*. Any deduction under 26 U.S.C. chapters 1–6, with respect to any tax against which the credit is allowed under paragraph (a) of this section shall only be for the amount of such tax as reduced by such credit.

(h) *Exception to credit*. The appropriate ATF officer shall deny any tax credit taken under paragraph (a) of this section where it is determined that the allowance of such credit would benefit a person who would otherwise fail to qualify for the use of such credit. (26 U.S.C. 5041(c).)

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[T.D. ATF–390, 62 FR 29666, June 2, 1997, as amended by T.D. ATF–398, 63 FR 44783, Aug. 21, 1998; T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

§ 24.279 Tax adjustments related to wine credit.

(a) *Increasing adjustments*. Persons who produce more wine than the amount used in computation of the credit, or who lose eligibility by not producing during a calendar year, must make increasing tax adjustments. Where an increasing adjustment to a person's tax return is necessary as a result of an incorrect credit rate claimed pursuant to § 24.278, such adjustment shall be made on Excise Tax Return, ATF F 5000.24, no later than the return period in which production (or the production of the controlled group of which the person is a member) exceeds the amount used in computation of the credit. If the adjustment is due to failure to produce, it shall be made no later than the last return period of the calendar year. The adjustment is the difference between the credit taken for prior return periods in that year and

the appropriate credit for such return periods. The person shall make tax adjustments for all bonded wine premises where excessive credits were taken against tax that year, and shall include interest payable. In the case of a person who continued to deduct credit after reaching the 100,000 gallon maximum during the calendar year, the adjustment is the full amount of excess credit taken, and shall include interest payable under 26 U.S.C. 6601 from the date on which the excess credit was taken, and may include the penalty payable under 26 U.S.C. 6662, at the discretion of the appropriate ATF officer. The appropriate ATF officer will provide information, when requested, regarding interest rates applicable to specific time periods, and any applicable penalties. In the case of a controlled group of bonded wine premises who took excess credits, all member proprietors who took incorrect credits shall make tax adjustments as determined in this section. In the case of a small producer who instructed a transferee in bond to take credit as authorized by § 24.278(b)(2), and subsequently determines the credit was less or not applicable, such producer shall immediately inform the transferee in bond, in writing, of the correct credit information. The transferee shall make any increasing adjustment on its next tax return based on revised credit information given by the producer or by an ATF officer.

(b) *Decreasing adjustments*. Where a person fails to deduct the credit, or deducts less than the appropriate credit provided for by § 24.278, during the calendar year, a claim may be filed for refund of tax excessively paid. Such claims will be filed in accordance with § 24.69 of this part. In the case of wine removed on behalf of a small producer by a transferee in bond, if the transferee in bond was instructed to deduct credit and failed to deduct credit or deducted less than the appropriate credit and was later reimbursed for the tax by such producer, such transferee may file the claim. The provisions of 26 U.S.C. 6423 and 27 CFR part 70, subpart F, will apply, and the producer and transferee in bond must show the conditions of

§ 24.278(b)(2) were met. (26 U.S.C. 5041(c).)

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[T.D. ATF–390, 62 FR 29667, June 2, 1997, as amended by T.D. ATF–409, 64 FR 13683, Mar. 22, 1999]

TRANSFER OF WINE IN BOND

§ 24.280 General.

Wine may be removed for transfer in bond, from one bonded wine premises to another bonded wine premises or to a distilled spirits plant. For bulk wine transferred in bond between adjacent or contiguous bonded wine premises or to an adjacent or contiguous distilled spirits plant, an accurately calibrated tank for measuring the wine is required on at least one of the premises. The volume of wine transferred will be recorded to the nearest whole gallon, five-tenths gallon being converted to the next full gallon. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362))

§ 24.281 Consignor premises.

Prior to transferring wine in bond, the proprietor shall prepare a transfer record prescribed by § 24.309. Except for multiple transfers as provided in § 24.282, a transfer record will be prepared for each shipment. On completion of lading (or completion of transfer by pipeline), the proprietor shall retain one copy of the transfer record for the files and forward the original to the consignee (by the close of the next business day). (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C. 5362)

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[T.D. ATF–299, 55 FR 24989, June 19, 1990, as amended by T.D. ATF–312, 56 FR 31082, July 9, 1991]

§ 24.282 Multiple transfers.

(a) *Truck.* The proprietor may use one transfer record for all wine shipped by truck on the same day to other premises. The proprietor shall prepare a shipment or delivery order for each shipment showing date of transfer, name and address of the proprietor and consignee, number of cases or containers, serial numbers of cases (if any) or container identification marks, and quantity shipped in gallons or liters. A copy of the shipping or delivery order will be retained by the proprietor and a copy sent with the shipment. On completion of lading the last truck for the day, the proprietor shall prepare and process a transfer record as provided in § 24.281.

(b) *Pipeline.* The proprietor may use one transfer record for all wine (including distilling material and vinegar stock) transferred by pipeline to adjacent premises during a month. At the end of the month, the proprietor shall prepare and process a transfer record as provided in § 24.281. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C 5362))

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§ 24.283 Reconsignment.

Prior to or on arrival at the premises of a consignee, wine transferred in bond may be reconsigned by the consignor. The bond of the proprietor to whom the wine is reconsigned will cover the wine while in transit after reconsignment. Notice of cancellation of the shipment will be made to the other proprietors involved by the proprietor who reconsigned the wine. Where reconsignment is to other than the shipping proprietor, a new transfer record prominently marked ''Reconsignment'' will be prepared and processed as provided by § 24.281. (Sec. 201, Pub. L. 85–859, 72 Stat. 1380, as amended (26 U.S.C 5362))

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§ 24.284 Consignee premises.

When wine is received by transfer in bond, the consignee shall check the shipment against the transfer record and determine by volumetric measure or weight the quantity received. The date received and, if different from the quantity shipped, the quantity received will be recorded on the transfer record. See § 24.267 for provisions applicable to losses in transit. Sealed containers or cases received without apparent loss need not be measured or weighed. The consignee will retain the original of